

REMARKS

This application has been amended so as to place it in condition for allowance at the time of the next Office Action.

Applicants have amended claim 11 to consistently refer to the initial position of the fin as the 'first' position, as opposed to the 'folded' position. Reconsideration and withdrawal of this objection are therefore respectfully requested.

The Office Action rejects the following claim sets as unpatentable over Thompson in view of identified secondary references: claims 1-7, 9, 10, and 20 in view of Thompson; claims 11-19 in view of Hirohata; and claim 8 in view of Fouere. Reconsideration and withdrawal of each rejection are respectfully requested for the following reasons:

One characteristic of the device as now disclosed and claimed relates to the operative mechanism by which the occluder is held in its insertion position. While in this position, the fin is substantially folded into the cylindrical body, with the free end housed in a reduced diameter portion. This preserves the overall cylindrical shape of the occluder prior to insertion.

In the present case, the occluder retains itself in this first/folded position. In sharp contrast, the Wallace apparatus quite clearly relies on something external to the occluder to maintain this position. This characteristic of the Wallace device is freely acknowledged by the Office Action, which states, e.g., on page 4: "Regarding the limitation of being

outside the lachrymal meatus, it is the Examiner's position that wing portion 21 of Wallace may be placed within a different physiological lumen, or held in its folded position manually or by deployment means."

The present device differs sharply, at least insofar as the device retains itself with the fin in the first/folded position while the device is at room temperature. When exposed to the body temperature of a human, the recited composition of a heat-deformable material, by its very nature, moves the fin from the first/folded position to the second/extended position.

Moreover, both independent claims 1 and 11 recite the cause/effect relationship between temperature and position. Irrespective of whether the devices of the applied references could take on the positions as recited in accordance with the recited temperature variable, none of them utilizes a heat-deformable material as recited, so that it is the temperature of the device itself that causes the fin to take one of the two defined positions at any point in time.

Independent claims 1 and 11, and by extension each claim that depends therefrom, now clearly recite a set of features that is entirely lacking from the known prior art, considered either individually or collectively.

Beyond the features of claims 1-20 discussed above, Applicants have added new claims 21 and 22, which depend from claims 1 and 11, respectively. Each of such new claims now more

specifically recites a further characteristic of the heat-deformable material, namely that the heat-deformable material of the fin is characterized so that fin assumes the folded position when the occluder is at a temperature below 37°C. This feature is disclosed at least on page 9, line 24 et seq. of the description as originally filed.

For all of these reasons, reconsideration and withdrawal of each rejection are respectfully requested.

Entry of the above amendments is earnestly solicited. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

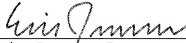
Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Please charge the fee of \$104 for the two extra dependent claims added herewith to our credit card set forth in the attached Credit Card Payment Form.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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